

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DATE FILED: 12/19/2016

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

KEVIN JOHNSON,

Defendant.
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15-CR-565 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS, on July 18, 2016, the Court filed a Protective Order Regarding the Confidentiality of the Forensic Statistical Tool Source Code and Related Documents [Dkt. 69];

WHEREAS the July 18 Protective Order defines “Highly Confidential Material” as “the New York City Office of the Chief Medical Examiner’s Forensic Statistical Tool (“FST”) source code or portions thereof produced by a party pursuant to a subpoena in this action”;

WHEREAS, on November 30, 2016, the Court ordered the parties to show cause why their proposed redactions to Defendant’s *Daubert* brief were appropriate [Dkt. 80];

WHEREAS on December 5, 2016, the parties filed a joint letter submitting newly proposed redactions to Defendant’s *Daubert* brief [Dkt. 85];

WHEREAS on December 6, 2016, the Court in a memo endorsement on the December 5 letter requested courtesy copies of the jointly proposed redactions [Dkt. 87];

WHEREAS the Court has reviewed the proposed redactions;


IT IS HEREBY ORDERED that all proposed redactions, except with respect to the appendices to Exhibit C of the brief, are APPROVED;

IT IS FURTHER ORDERED that on or before **January 5, 2017**, the parties must submit a joint letter to the Court explaining whether, for the appendices to Exhibit C, the parties' proposed redactions are for the name of each Figure or for the entire screenshot that is displayed in the Figure. The parties also are directed to explain why a redaction of either the Figure name or the screenshot is appropriate in light of the presumption of access discussed in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), when it appears to the Court that several of the Figure names and associated screenshots in the appendices to Exhibit C do not reflect FST source code or portions thereof.

IT IS FURTHER ORDERED that if counsel seeks to resubmit their proposed redactions, counsel must deliver by mail or hand a courtesy copy of the proposed redactions to Chambers. In submitting proposed redactions to the Court, if counsel highlights the proposed redactions, the underlying information that has been highlighted should still be legible to the Court so that the Court may simultaneously view the information to be filed under seal and the proposed redactions.

SO ORDERED.

Date: December 19, 2016
New York, New York



VALERIE CAPRONI
United States District Judge